

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
3                                   **EASTERN DISTRICT OF TEXAS**

4                   **DEBORAH JENNINGS,**

5                                   Plaintiff,

6                                   **v.**

7                   **PREMIER RECOVERY GROUP,**  
8                   **INC.,**

9                                   Defendant.

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**Civil Action No.:**

**JURY TRIAL DEMANDED**

11                                   **COMPLAINT**

12                   DEBORAH JENNINGS (“Plaintiff”), by and through her attorneys,  
13                   KIMMEL & SILVERMAN, P.C., alleges the following against PREMIER  
14                   RECOVERY GROUP, INC. (“Defendant”):

15                                   **INTRODUCTION**

16                   1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices  
17                   Act, 15 U.S.C. §1692 *et seq.* (“FDCPA”), the Texas Debt Collections Practices  
18                   Act, Tex. Fin. Code Ann. § 392.301 *et seq.* (“TFDCPA”) and the Telephone  
19                   Consumer Protection Act, 47 U.S.C. §227 *et seq.* (“TCPA”).  
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**JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. §1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the State of Texas and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. §1391(b)(2).

**PARTIES**

5. Plaintiff is a natural person residing in Melissa, Texas 75454.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §153(39).

7. In the alternative, Plaintiff is a person granted a cause of action under the FDCPA. See §1692 (k)(a) and *Wenrich v. Cole*, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant is a debt collection company with its corporate headquarters located at 191 North Street, Suite 110, Buffalo, NY 14201.

10. At all relevant times, Defendant acted as a “debt collector” within the

1 meaning of 15 U.S.C. § 1692(a)(6) and Tex. Fin. Code Ann. § 392.001(6); and,  
2 Defendant attempted to collect a “debt” as defined by 15 U.S.C. §1692(a)(5) and  
3 Tex. Fin. Code Ann. § 392.001(2).  
4

5 11. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §  
6 1692a(6), and sought to collect a consumer debt from Plaintiff.

7 12. Defendant is a “person” as that term is defined by 47 U.S.C.  
8 §153(39).  
9

10 13. Defendant acted through its agents, employees, officers, members,  
11 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
12 representatives, and insurers.  
13

### 14 **FACTUAL ALLEGATIONS**

15 14. Plaintiff has a cellular telephone number.

16 15. Plaintiff has only used this phone as a cellular telephone.

17 16. Beginning in or around July 2016 and continuing thereafter,  
18 Defendant placed repeated calls to Plaintiff’s cellular telephone in order to contact  
19 a third party named Mary Nettles.  
20

21 17. Defendant placed calls from phone numbers, including but not limited  
22 to the following: (866) 369-7991.  
23

24 18. Defendant placed automated calls to Plaintiff’s cellular telephone that  
25 began with a prerecorded message before the calls were transferred to collectors.

1 19. Defendant's calls were not for emergency purposes.

2 20. Plaintiff told Defendant they were calling a wrong number and  
3 requested that the calls stop when calls began in July 2016.  
4

5 21. Defendant heard and acknowledged Plaintiff's request to stop calling.

6 22. Once Defendant was aware that its calls were unwanted and to stop,  
7 there was no lawful purpose to making further calls, nor was there any good faith  
8 reason to place calls.  
9

10 23. Defendant failed to restrict its calls to Plaintiff's cellular telephone  
11 and continued to call Plaintiff through October 2016.  
12

13 24. These calls were frustrating and annoying for Plaintiff, particularly  
14 since Defendant would call Plaintiff while she was at work.

15 25. After Plaintiff's requests to stop the calls were ignored by  
16 Defendant's collectors, she had no other option but to block calls from  
17 Defendant's number.  
18

19 **COUNT I**  
20 **DEFENDANT VIOLATED §§1692d and 1692d(5) OF THE FDCPA**

21 26. A debt collector violates §1692d of the FDCPA by engaging in  
22 conduct of the natural consequence of which is to harass, oppress, or abuse any  
23 person in connection with the collection of a debt.

24 27. A debt collector violates §1692d(5) of the FDCPA by causing a  
25 telephone to ring or engaging any person in telephone conversation repeatedly or

1 continuously with intent to annoy, abuse, or harass any person at the called  
2 number.

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4 28. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA by  
5 placing repeated harassing telephone calls to Plaintiff's cellular telephone and  
6 continuing to call even after Plaintiff told Defendant they were calling a wrong  
7 number and requested the calls stop.

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9 **COUNT II**  
10 **DEFENDANT VIOLATED § 392.302(4) OF THE TFDCPA**

11 36. A debt collector violates § 392.302(4) of the TFDCPA by causing a  
12 telephone to ring repeatedly or continuously, or making repeated or continuous  
13 telephone calls, with the intent to harass a person at the called number.

14 37. Defendant violated § 392.302(4) of the Texas FDCPA by causing  
15 Plaintiff's cellular telephone to ring repeatedly or continuously with the intent of  
16 annoying and harassing her, and continuing to call her even after it knew it was  
17 calling the wrong party and she requested the calls cease.

18  
19 **COUNT III**  
20 **DEFENDANT VIOLATED THE TCPA**

21 29. Plaintiff incorporates the forgoing paragraphs as though the same were  
22 set forth at length herein.

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24 30. Defendant initiated automated calls to Plaintiff using an automatic  
25 telephone dialing system.

1           31. Defendant's calls to Plaintiff were not made for emergency purposes.

2           32. Defendant's calls to Plaintiff were not made with Plaintiff's prior  
3 express consent.  
4

5           33. Defendant's acts as described above were done with malicious,  
6 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights  
7 under the law and with the purpose of harassing Plaintiff.  
8

9           34. The acts and/or omissions of Defendant were done unfairly,  
10 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,  
11 lawful right, legal defense, legal justification or legal excuse.  
12

13           35. As a result of the above violations of the TCPA, Plaintiff has suffered  
14 the losses and damages as set forth above entitling Plaintiff to an award of  
15 statutory, actual and trebles damages.

16           WHEREFORE, Plaintiff, DEBORAH JENNINGS, respectfully prays for a  
17 judgment as follows:  
18

19           a. All actual damages suffered pursuant to 15 U.S.C. §  
20 1692k(a)(1);

21           b. Statutory damages of \$1,000.00 for the violation of the FDCPA  
22 pursuant to 15 U.S.C. § 1692k(a)(2)(A);  
23  
24  
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1 c. All reasonable attorneys' fees, witness fees, court costs and  
2 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §  
3 1693k(a)(3) and Tex. Fin. Code § 392.403(b);

4  
5 d. All actual damages suffered pursuant to 47 U.S.C. §  
6 227(b)(3)(A);

7  
8 e. Statutory damages of \$500.00 per violative telephone call  
9 pursuant to 47 U.S.C. § 227(b)(3)(B);

10 f. Treble damages of \$1,500.00 per violative telephone call  
11 pursuant to 47 U.S.C. §227(b)(3);

12  
13 g. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);

14 h. Any other relief deemed appropriate by this Honorable Court.

15 **DEMAND FOR JURY TRIAL**

16 PLEASE TAKE NOTICE that Plaintiff, DEBORAH JENNINGS, demands  
17 a jury trial in this case.

18  
19 RESPECTFULLY SUBMITTED,

20  
21 Date: November 11, 2016

22 By: /s/ Amy L. Bennecoff Ginsburg  
23 Amy L. Bennecoff Ginsburg, Esq.  
24 Kimmel & Silverman, P.C.  
25 30 East Butler Pike  
Ambler, PA 19002  
Phone: (215) 540-8888  
Facsimile: (877) 788-2864  
Email: [aginsburg@creditlaw.com](mailto:aginsburg@creditlaw.com)